

SSB 5592 - H COMM AMD
By Committee on Judiciary

ADOPTED 04/14/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 6.27.020 and 1987 c 442 s 1002 are each amended to
4 read as follows:

5 (1) The clerks of the superior courts and district courts of this
6 state may issue writs of garnishment returnable to their respective
7 courts for the benefit of a judgment creditor who has a judgment wholly
8 or partially unsatisfied in the court from which the garnishment is
9 sought.

10 (2) Writs of garnishment may be issued in district court with like
11 effect by the attorney of record for the judgment creditor, and the
12 form of writ shall be substantially the same as when issued by the
13 court except that it shall be subscribed only by the signature of such
14 attorney.

15 (3) Except as otherwise provided in RCW 6.27.040 and 6.27.330, the
16 superior courts and district courts of this state may issue prejudgment
17 writs of garnishment to a plaintiff at the time of commencement of an
18 action or at any time afterward, subject to the requirements of chapter
19 6.26 RCW.

20 **Sec. 2.** RCW 6.27.040 and 1987 c 442 s 1004 and 1987 c 202 s 134
21 are each reenacted and amended to read as follows:

22 (1) The state of Washington, all counties, cities, towns, school
23 districts and other municipal corporations shall be subject to
24 garnishment after judgment has been entered in the principal action,
25 but not before, in the superior and district courts, in the same manner
26 and with the same effect, as provided in the case of other garnishees.

27 (2) The venue of any such garnishment proceeding shall be the same
28 as for the original action, and the writ shall be issued by the clerk

1 of the court having jurisdiction of such original action or by the
2 attorney of record for the judgment creditor in district court.

3 (3) The writ of garnishment shall be served (~~in the same manner~~
4 ~~and~~) upon the same officer as is required for service of summons upon
5 the commencement of a civil action against the state, county, city,
6 town, school district, or other municipal corporation, as the case may
7 be.

8 **Sec. 3.** RCW 6.27.070 and 1987 c 442 s 1007 are each amended to
9 read as follows:

10 (1) When application for a writ of garnishment is made by a
11 judgment creditor and the requirements of RCW 6.27.060 have been
12 complied with, the clerk shall docket the case in the names of the
13 judgment creditor as plaintiff, the judgment debtor as defendant, and
14 the garnishee as garnishee defendant, and shall immediately issue and
15 deliver a writ of garnishment to the judgment creditor in the form
16 prescribed in RCW 6.27.100, directed to the garnishee, commanding the
17 garnishee to answer said writ on forms served with the writ and
18 complying with RCW 6.27.190 within twenty days after the service of the
19 writ upon the garnishee. The clerk shall likewise docket the case when
20 a writ of garnishment issued by the attorney of record of a judgment
21 creditor is filed. Whether a writ is issued by the clerk or an
22 attorney, the clerk shall bear no responsibility for errors contained
23 in the writ.

24 (2) The writ of garnishment shall be dated and attested as in the
25 form prescribed in RCW 6.27.100. The name and office address of the
26 plaintiff's attorney shall be indorsed thereon or, in case the
27 plaintiff has no attorney, the name and address of the plaintiff shall
28 be indorsed thereon. The address of the clerk's office shall appear at
29 the bottom of the writ.

30 **Sec. 4.** RCW 6.27.100 and 2000 c 72 s 3 are each amended to read as
31 follows:

32 (1) The writ shall be substantially in the following form(~~+~~
33 ~~PROVIDED, That~~), but if the writ is issued under a court order or
34 judgment for child support, the following statement shall appear
35 conspicuously in the caption: "This garnishment is based on a judgment

1 or court order for child support" (~~AND PROVIDED FURTHER, That~~); and
2 if the garnishment is for a continuing lien, the form shall be modified
3 as provided in RCW 6.27.340 (~~AND PROVIDED FURTHER, That~~); and if
4 the writ is not directed to an employer for the purpose of garnishing
5 a defendant's earnings, the paragraph relating to the earnings
6 exemption may be omitted and the paragraph relating to the deduction of
7 processing fees may be omitted; and if the writ is issued by an
8 attorney, the writ shall be revised as indicated in subsection (2) of
9 this section:

10 "IN THE COURT
11 OF THE STATE OF WASHINGTON IN AND FOR
12 THE COUNTY OF

13
14 Plaintiff, No.
15 vs.
16 WRIT OF
17 Defendant GARNISHMENT
18
19 Garnishee

20 THE STATE OF WASHINGTON TO:
21 Garnishee

22 AND TO:
23 Defendant

24 The above-named plaintiff has applied for a writ of
25 garnishment against you, claiming that the above-named
26 defendant is indebted to plaintiff and that the amount to be
27 held to satisfy that indebtedness is \$, consisting of:

28	Balance on Judgment or Amount of Claim	\$
29	Interest under Judgment from to	\$
30	Taxable Costs and Attorneys' Fees	\$
31	Estimated Garnishment Costs:	
32	Filing Fee	\$
33	Service and Affidavit Fees	\$
34	Postage and Costs of Certified Mail	\$
35	Answer Fee or Fees (If applicable)	\$

1	Garnishment Attorney Fee	\$....
2	Other	\$....

3 YOU ARE HEREBY COMMANDED, unless otherwise directed by the court,
4 by the attorney of record for the plaintiff, or by this writ, not to
5 pay any debt, whether earnings subject to this garnishment or any other
6 debt, owed to the defendant at the time this writ was served and not to
7 deliver, sell, or transfer, or recognize any sale or transfer of, any
8 personal property or effects of the defendant in your possession or
9 control at the time when this writ was served. Any such payment,
10 delivery, sale, or transfer is void to the extent necessary to satisfy
11 the plaintiff's claim and costs for this writ with interest.

12 YOU ARE FURTHER COMMANDED to answer this writ by filling in the
13 attached form according to the instructions in this writ and in the
14 answer forms and, within twenty days after the service of the writ upon
15 you, to mail or deliver the original of such answer to the court, one
16 copy to the plaintiff or the plaintiff's attorney, and one copy to the
17 defendant, in the envelopes provided.

18 If, at the time this writ was served, you owed the defendant any
19 earnings (that is, wages, salary, commission, bonus, or other
20 compensation for personal services or any periodic payments pursuant to
21 a nongovernmental pension or retirement program), the defendant is
22 entitled to receive amounts that are exempt from garnishment under
23 federal and state law. You must pay the exempt amounts to the
24 defendant on the day you would customarily pay the compensation or
25 other periodic payment. As more fully explained in the answer, the
26 basic exempt amount is the greater of seventy-five percent of
27 disposable earnings or a minimum amount determined by reference to the
28 employee's pay period, to be calculated as provided in the answer.
29 However, if this writ carries a statement in the heading that "This
30 garnishment is based on a judgment or court order for child support,"
31 the basic exempt amount is forty percent of disposable earnings.

32 IF THIS IS A WRIT FOR A CONTINUING LIEN ON EARNINGS, YOU MAY DEDUCT
33 A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER
34 WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY
35 DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE
36 SECOND ANSWER.

1 If you owe the defendant a debt payable in money in excess of the
2 amount set forth in the first paragraph of this writ, hold only the
3 amount set forth in the first paragraph and any processing fee if one
4 is charged and release all additional funds or property to defendant.

5 IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE
6 ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM
7 AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS
8 WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY
9 ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT
10 OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS
11 IN YOUR POSSESSION OR CONTROL.

12 JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND
13 FEES INCURRED BY THE PLAINTIFF.

14 Witness, the Honorable, Judge of the above-entitled
15 Court, and the seal thereof, this day of, 20. . .

16 [Seal]

17
18	Attorney for	Clerk of
19	Plaintiff (or	the Court
20	Plaintiff, if no	
21	attorney)	
22
23	Address	By
24	
25		Address"

26 (2) If an attorney issues the writ of garnishment, the final
27 paragraph of the writ, containing the date, and the subscribed
28 attorney and clerk provisions, shall be replaced with text in
29 substantially the following form:

30 "This writ is issued by the undersigned attorney of record for
31 plaintiff under the authority of chapter 6.27 of the Revised Code of
32 Washington, and must be complied with in the same manner as a writ
33 issued by the clerk of the court.

34 Dated this day of 20

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.....
Attorney for Plaintiff
.....
Address" Address of the Clerk of the
Court

Sec. 5. RCW 6.27.130 and 1988 c 231 s 27 are each amended to read as follows:

(1) When a writ is issued under a judgment, on or before the date of service of the writ on the garnishee, the judgment creditor shall mail or cause to be mailed to the judgment debtor, by certified mail, addressed to the last known post office address of the judgment debtor, (a) a copy of the writ and a copy of the (~~judgment or, if it is a district court judgment, a copy of the~~) judgment creditor's affidavit submitted in application for the writ, and (b) if the judgment debtor is an individual, the notice and claim form prescribed in RCW 6.27.140. In the alternative, on or before the day of the service of the writ on the garnishee or within two days thereafter, the stated documents shall be served on the judgment debtor in the same manner as is required for personal service of summons upon a party to an action.

(2) The requirements of this section shall not be jurisdictional, but (a) no disbursement order or judgment against the garnishee defendant shall be entered unless there is on file the return or affidavit of service or mailing required by subsection (3) of this section, and (b) if the copies of the writ and judgment or affidavit, and the notice and claim form if the defendant is an individual, are not mailed or served as herein provided, or if any irregularity appears with respect to the mailing or service, the court, in its discretion, on motion of the judgment debtor promptly made and supported by affidavit showing that the judgment debtor has suffered substantial injury from the plaintiff's failure to mail or otherwise to serve such copies, may set aside the garnishment and award to the judgment debtor an amount equal to the damages suffered because of such failure.

(3) If the service on the judgment debtor is made by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the copy of the writ was accompanied by a copy of a judgment or

1 affidavit, and by a notice and claim form if required by this section,
2 and shall note thereon fees for making such service. If service is
3 made by any person other than a sheriff, such person shall file an
4 affidavit including the same information and showing qualifications to
5 make such service. If service on the judgment debtor is made by mail,
6 the person making the mailing shall file an affidavit including the
7 same information as required for return on service and, in addition,
8 showing the address of the mailing and attaching the return receipt or
9 the mailing should it be returned to the sender as undeliverable.

10 **Sec. 6.** RCW 6.27.140 and 1997 c 59 s 2 are each amended to read as
11 follows:

12 (1) The notice required by RCW 6.27.130(1) to be mailed to or
13 served on an individual judgment debtor shall be in the following form,
14 printed or typed in type no smaller than elite type:

15 NOTICE OF GARNISHMENT
16 AND OF YOUR RIGHTS

17 A Writ of Garnishment issued (~~by~~) in a Washington court has
18 been or will be served on the garnishee named in the attached
19 copy of the writ. After receipt of the writ, the garnishee is
20 required to withhold payment of any money that was due to you
21 and to withhold any other property of yours that the garnishee
22 held or controlled. This notice of your rights is required by
23 law.

24 YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

25 WAGES. If the garnishee is your employer who owes wages or
26 other personal earnings to you, your employer is required to
27 pay amounts to you that are exempt under state and federal
28 laws, as explained in the writ of garnishment. You should
29 receive a copy of your employer's answer, which will show how
30 the exempt amount was calculated. If the garnishment is for
31 child support, the exempt amount paid to you will be forty
32 percent of wages due you, but if you are supporting a spouse or
33 dependent child, you are entitled to claim an additional ten
34 percent as exempt.

1 BANK ACCOUNTS. If the garnishee is a bank or other institution
2 with which you have an account in which you have deposited
3 benefits such as Temporary Assistance for Needy Families,
4 Supplemental Security Income (SSI), Social Security, veterans'
5 benefits, unemployment compensation, or a United States
6 pension, you may claim the account as fully exempt if you have
7 deposited only such benefit funds in the account. It may be
8 partially exempt even though you have deposited money from
9 other sources in the same account. An exemption is also
10 available under RCW 26.16.200, providing that funds in a
11 community bank account that can be identified as the earnings
12 of a stepparent are exempt from a garnishment on the child
13 support obligation of the parent.

14 OTHER EXEMPTIONS. If the garnishee holds other property of
15 yours, some or all of it may be exempt under RCW 6.15.010, a
16 Washington statute that exempts up to five hundred dollars of
17 property of your choice (including up to one hundred dollars in
18 cash or in a bank account) and certain property such as
19 household furnishings, tools of trade, and a motor vehicle (all
20 limited by differing dollar values).

21 HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and
22 mail or deliver it as described in instructions on the claim
23 form. If the plaintiff does not object to your claim, the
24 funds or other property that you have claimed as exempt must be
25 released not later than 10 days after the plaintiff receives
26 your claim form. If the plaintiff objects, the law requires a
27 hearing not later than 14 days after the plaintiff receives
28 your claim form, and notice of the objection and hearing date
29 will be mailed to you at the address that you put on the claim
30 form.

31 THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN
32 ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT
33 YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

34 (2) The claim form required by RCW 6.27.130(1) to be mailed to or

1 served on an individual judgment debtor shall be in the following form,
2 printed or typed in type no smaller than elite type:

3 [Caption to be filled in by judgment creditor
4 or plaintiff before mailing.]

5
6 Name of Court
7 No

8 Plaintiff,

9 vs.

10 EXEMPTION CLAIM
11 Defendant,

12
13 Garnishee Defendant

14 INSTRUCTIONS:

- 15 1. Read this whole form after reading the enclosed
16 notice. Then put an X in the box or boxes that
17 describe your exemption claim or claims and write
18 in the necessary information on the blank lines. If
19 additional space is needed, use the bottom of the
20 last page or attach another sheet.
- 21 2. Make two copies of the completed form. Deliver
22 the original form by first class mail or in person to
23 the clerk of the court, whose address is shown at the
24 bottom of the writ of garnishment. Deliver one of
25 the copies by first class mail or in person to the
26 plaintiff or plaintiff's attorney, whose name and
27 address are shown at the bottom of the writ. Keep
28 the other copy. **YOU SHOULD DO THIS AS**
29 **QUICKLY AS POSSIBLE, BUT NO LATER**
30 **THAN 28 DAYS (4 WEEKS) AFTER THE DATE**
31 **ON THE WRIT.**

32 I/We claim the following money or property as exempt:

33 IF BANK ACCOUNT IS GARNISHED:

34 [] The account contains payments from:

- 1 Temporary assistance for needy families, SSI, or
- 2 other public assistance. I receive \$
- 3 monthly.
- 4 Social Security. I receive \$ monthly.
- 5 Veterans' Benefits. I receive \$ monthly.
- 6 U.S. Government Pension. I receive \$
- 7 monthly.
- 8 Unemployment Compensation. I receive \$
- 9 monthly.
- 10 Child support. I receive \$ monthly.
- 11 Other. Explain
- 12

13 IF EXEMPTION IN BANK ACCOUNT IS CLAIMED,
 14 ANSWER ONE OR BOTH OF THE FOLLOWING:

- 15 No money other than from above payments are in
- 16 the account.
- 17 Moneys in addition to the above payments have
- 18 been deposited in the account. Explain
- 19
- 20

21 IF EARNINGS ARE GARNISHED FOR CHILD
 22 SUPPORT:

- 23 I claim maximum exemption.
- 24 I am supporting another child or other children.
- 25 I am supporting a husband or a wife.

26 IF PENSION OR RETIREMENT BENEFITS ARE
 27 GARNISHED:

- 28 Name and address of employer who is paying the
- 29 benefits:
- 30

31 OTHER PROPERTY:

- 32 Describe property
- 33

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

.....

Print: Your name If married,
name of husband/wife

.....

Your signature Signature of husband
or wife

.....

.....

Address Address
(if different from yours)

.....

Telephone number Telephone number
(if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

Sec. 7. RCW 6.27.160 and 2002 c 265 s 3 are each amended to read as follows:

(1) A defendant may claim exemptions from garnishment in the manner specified by the statute that creates the exemption or by delivering to or mailing by first class mail to the clerk of the court out of which the writ was issued a declaration in substantially the following form or in the form set forth in RCW 6.27.140 and mailing a copy of the form by first class mail to the plaintiff or plaintiff's attorney at the

1 address shown on the writ of garnishment, all not later than twenty-
2 eight days after the date stated on the writ except that the time shall
3 be extended to allow a declaration mailed or delivered to the clerk
4 within twenty-one days after service of the writ on the garnishee if
5 service on the garnishee is delayed more than seven days after the date
6 of the writ.

7 [NAME OF COURT]

8 No.

9 Plaintiff

10

11 Defendant

12 CLAIM OF EXEMPTION

13 Garnishee

14 I/We claim the following described property or money as
15 exempt from execution:

16
17
18

19 I/We believe the property is exempt because:

20
21
22

23

24 Print name Print name of spouse,
25 if married

26

27 Signature Signature

28

29 Address Address

30

31

32 Telephone number Telephone number

33

1 (2) A plaintiff who wishes to object to an exemption claim must,
2 not later than seven days after receipt of the claim, cause to be
3 delivered or mailed to the defendant by first class mail, to the
4 address shown on the exemption claim, a declaration by self, attorney,
5 or agent, alleging the facts on which the objection is based, together
6 with notice of date, time, and place of a hearing on the objection,
7 which hearing the plaintiff must cause to be noted for a hearing date
8 not later than fourteen days after the receipt of the claim. After a
9 hearing on an objection to an exemption claim, the court shall award
10 costs to the prevailing party and may also award an attorney's fee to
11 the prevailing party if the court concludes that the exemption claim or
12 the objection to the claim was not made in good faith. The defendant
13 bears the burden of proving any claimed exemption, including the
14 obligation to provide sufficient documentation to identify the source
15 and amount of any claimed exempt funds.

16 (3) If the plaintiff elects not to object to the claim of
17 exemption, the plaintiff shall, not later than ten days after receipt
18 of the claim, obtain from the court and deliver to the garnishee an
19 order directing the garnishee to release such part of the debt,
20 property, or effects as is covered by the exemption claim. If the
21 plaintiff fails to obtain and deliver the order as required or
22 otherwise to effect release of the exempt funds or property, the
23 defendant shall be entitled to recover fifty dollars from the
24 plaintiff, in addition to actual damages suffered by the defendant from
25 the failure to release the exempt property. The attorney of record for
26 the plaintiff may, as an alternative to obtaining a court order
27 releasing exempt funds, property, or effects, deliver to the garnishee
28 and file with the court an authorization to release claimed exempt
29 funds, property, or effects, signed by the attorney, in substantially
30 the following form:

31 [NAME OF COURT]
32 No.
33 Plaintiff,
34 vs. RELEASE OF WRIT OF
35 GARNISHMENT
36

1 ~~PROVIDED FURTHER, That~~)). If the writ is not directed to an employer
2 for the purpose of garnishing the defendant's wages, the paragraphs in
3 section II of the answer relating to ((the)) earnings ((exemptions))
4 and calculations of withheld amounts may be omitted.

5 IN THECOURT
6 OF THE STATE OF WASHINGTON IN AND FOR
7 THE COUNTY OF
8 NO.
9 Plaintiff
10 vs. ANSWER
11 TO WRIT OF
12 Defendant GARNISHMENT
13
14 Garnishee Defendant

15 SECTION I. On the date the writ of garnishment was issued (~~by the~~
16 ~~court~~) as indicated by the date appearing on the last page of the
17 writ(~~, defendant (check one) . . . was . . . was not employed by~~
18 ~~garnishee; defendant (check one) . . . did . . . did not maintain a~~
19 ~~financial account with garnishee; and garnishee (check one) . . . did~~
20 ~~. . . did not have possession of or control over any funds, personal~~
21 ~~property, or effects of defendant.~~

22 ~~At the time of service of the writ of garnishment on the garnishee~~
23 ~~there was due and owing from the garnishee to the above named defendant~~
24 ~~\$ (On the reverse side of this answer form, or on an~~
25 ~~attached page, give an explanation of the dollar amount stated, or give~~
26 ~~reasons why there is uncertainty about your answer.)~~

27 ~~If the above amount or any part of it is for personal earnings~~
28 ~~(that is, compensation payable for personal services, whether called~~
29 ~~wages, salary, commission, bonus, or otherwise, and including periodic~~
30 ~~payments pursuant to a pension or retirement program): Garnishee has~~
31 ~~deducted from this amount \$ which is the exemption to which~~
32 ~~the defendant is entitled, leaving \$ that garnishee holds~~
33 ~~under the writ. The exempt amount is calculated as follows:~~

34
35 Total compensation due defendant \$.....

1 LESS deductions for social security
 2 and withholding taxes and any
 3 other deduction required by law
 4 (list separately and identify) \$.....
 5 Disposable earnings \$.....

6 ~~If the title of this writ indicates that this is a garnishment~~
 7 ~~under a child support judgment, enter forty percent of disposable~~
 8 ~~earnings: \$ This amount is exempt and must be paid to the~~
 9 ~~defendant at the regular pay time after deducting any processing fee~~
 10 ~~you may charge.~~

11 ~~If this is not a garnishment for child support, enter seventy five~~
 12 ~~percent of disposable earnings: \$ From the listing in~~
 13 ~~the following paragraph, choose the amount for the relevant pay period~~
 14 ~~and enter that amount: \$ (If amounts for more than one~~
 15 ~~pay period are due, multiply the preceding amount by the number of pay~~
 16 ~~periods and/or fraction of pay period for which amounts are due and~~
 17 ~~enter that amount: \$) The greater of the amounts entered~~
 18 ~~in this paragraph is the exempt amount and must be paid to the~~
 19 ~~defendant at the regular pay time after deducting any processing fee~~
 20 ~~you may charge.~~

21 ~~Minimum exempt amounts for different pay periods: Weekly~~
 22 ~~\$; Biweekly \$; Semimonthly \$;~~
 23 ~~Monthly \$~~

24 ~~List all of the personal property or effects of defendant in the~~
 25 ~~garnishee's possession or control when the writ was served. (Use the~~
 26 ~~reverse side of this answer form or attach a schedule if necessary.)):~~

27 (A) The defendant: (check one) was, was not employed
 28 by garnishee. If not employed and you have no possession or control of
 29 any funds of defendant, indicate the last day of employment:
 30 . . .; and complete section III of this answer and mail or deliver the
 31 forms as directed in the writ;

32 (B) The defendant: (check one) did, did not maintain
 33 a financial account with garnishee; and

34 (C) The garnishee: (check one) did, did not have
 35 possession of or control over any funds, personal property, or effects

1 of the defendant. (List all of defendant's personal property or
2 effects in your possession or control on the last page of this answer
3 form or attach a schedule if necessary.)

4 SECTION II. At the time of service of the writ of garnishment on
5 the garnishee there was due and owing from the garnishee to the above-
6 named defendant \$

7 This writ attaches a maximum of percent of the defendant's
8 disposable earnings (that is, compensation payable for personal
9 services, whether called wages, salary, commission, bonus, or
10 otherwise, and including periodic payments pursuant to a
11 nongovernmental pension or retirement program). Calculate the
12 attachable amount as follows:

13 Gross Earnings \$(1)
14 Less deductions required by law (social security,
15 federal withholding tax, etc. Do not include
16 deductions for child support orders or government
17 liens here. Deduct child support orders and liens
18 on line 7): \$(2)
19 Disposable Earnings (subtract line 2 from
20 line 1): \$(3)
21 Enter percent of line 3: \$(4)
22 Enter one of the following exempt amounts*: \$(5)

23	<u>If paid:</u>	<u>Weekly</u>	<u>\$.....</u>	<u>Semi-monthly</u>	<u>\$.....</u>
24		<u>Bi-weekly</u>	<u>\$.....</u>	<u>Monthly</u>	<u>\$.....</u>

25 *These are minimum exempt amounts that the
26 defendant must be paid. If your answer
27 covers more than one pay period, multiply
28 the preceding amount by the number of pay
29 periods and/or fraction thereof your answer
30 covers. If you use a pay period not shown,
31 prorate the monthly exempt amount.

32 Subtract the larger of lines 4 and 5 from

1 line 3: \$(6)
 2 Enter amount (if any) withheld for ongoing
 3 government liens such as child support: \$(7)
 4 Subtract line 7 from line 6. This amount
 5 must be held out for the plaintiff: \$(8)

6 This is the formula that you will use for withholding each pay period
 7 over the required sixty-day garnishment period. Deduct any allowable
 8 processing fee you may charge from the amount that is to be paid to the
 9 defendant.

10 If there is any uncertainty about your answer, give an explanation
 11 on the last page or on an attached page.

12 SECTION III. An attorney may answer for the garnishee.
 13 Under penalty of perjury, I affirm that I have examined this
 14 answer, including accompanying schedules, and to the best of my
 15 knowledge and belief it is true, correct, and complete.

16
 17 Signature of Date
 18 Garnishee Defendant
 19
 20 Signature of person Connection with
 21 answering for garnishee
 22 garnishee
 23
 24 ((.....
 25
 26 Address of Garnishee))
 27
 28 Print name of person
 29 signing Address of garnishee

30 **Sec. 9.** RCW 6.27.200 and 1997 c 296 s 6 are each amended to read
 31 as follows:

32 If the garnishee fails to answer the writ within the time
 33 prescribed in the writ, after the time to answer the writ has expired
 34 and after required returns or affidavits have been filed, showing

1 service on the garnishee and service on or mailing to the defendant, it
2 shall be lawful for the court to render judgment by default against
3 such garnishee, after providing a notice to the garnishee by personal
4 service or first class mail deposited in the mail at least ten calendar
5 days prior to entry of the judgment, for the full amount claimed by the
6 plaintiff against the defendant, or in case the plaintiff has a
7 judgment against the defendant, for the full amount of the plaintiff's
8 unpaid judgment against the defendant with all accruing interest and
9 costs as prescribed in RCW 6.27.090: PROVIDED, That upon motion by the
10 garnishee at any time within seven days following service on, or
11 mailing to, the garnishee of a copy of ((a)) the first writ of
12 execution or ((a)) writ of garnishment under such judgment, the
13 judgment against the garnishee shall be reduced to the amount of any
14 nonexempt funds or property which was actually in the possession of the
15 garnishee at the time the writ was served, plus the cumulative amount
16 of the nonexempt earnings subject to the lien provided for in RCW
17 6.27.350, or the sum of one hundred dollars, whichever is more, but in
18 no event to exceed the full amount claimed by the plaintiff or the
19 amount of the unpaid judgment against the principal defendant plus all
20 accruing interest and costs and attorney's fees as prescribed in RCW
21 6.27.090, and in addition the plaintiff shall be entitled to a
22 reasonable attorney's fee for the plaintiff's response to the
23 garnishee's motion to reduce said judgment against the garnishee under
24 this proviso and the court may allow additional attorney's fees for
25 other actions taken because of the garnishee's failure to answer.

26 **Sec. 10.** RCW 6.27.250 and 2000 c 72 s 5 are each amended to read
27 as follows:

28 (1)(a) If it appears from the answer of the garnishee or if it is
29 otherwise made to appear that the garnishee was indebted to the
30 defendant in any amount, not exempt, when the writ of garnishment was
31 served, and if the required return or affidavit showing service on or
32 mailing to the defendant is on file, the court shall render judgment
33 for the plaintiff against such garnishee for the amount so admitted or
34 found to be due to the defendant from the garnishee, unless such amount
35 exceeds the amount of the plaintiff's claim or judgment against the
36 defendant with accruing interest and costs and attorney's fees as

1 prescribed in RCW 6.27.090, in which case it shall be for the amount of
2 such claim or judgment, with said interest, costs, and fees. In the
3 case of a superior court garnishment, the court shall order the
4 garnishee to pay to the plaintiff or to the plaintiff's attorney
5 through the registry of the court the amount of the judgment against
6 the garnishee, the clerk of the court shall note receipt of any such
7 payment, and the clerk of the court shall disburse the payment to the
8 plaintiff. In the case of a district court garnishment, the court
9 shall order the garnishee to pay the judgment amount directly to the
10 plaintiff or to the plaintiff's attorney. In either case, the court
11 shall inform the garnishee that failure to pay the amount may result in
12 execution of the judgment, including garnishment.

13 (b) If, prior to judgment, the garnishee tenders to the plaintiff
14 or to the plaintiff's attorney or to the court any amounts due, such
15 tender will support judgment against the garnishee in the amount so
16 tendered, subject to any exemption claimed within the time required in
17 RCW 6.27.160 after the amounts are tendered, and subject to any
18 controversion filed within the time required in RCW 6.27.210 after the
19 amounts are tendered. Any amounts tendered to the court by or on
20 behalf of the garnishee or the defendant prior to judgment shall be
21 disbursed to the party entitled to same upon entry of judgment or
22 order, and any amounts so tendered after entry of judgment or order
23 shall be disbursed upon receipt to the party entitled to same.

24 (2) If it shall appear from the answer of the garnishee and the
25 same is not controverted, or if it shall appear from the hearing or
26 trial on controversion or by stipulation of the parties that the
27 garnishee is indebted to the principal defendant in any sum, but that
28 such indebtedness is not matured and is not due and payable, and if the
29 required return or affidavit showing service on or mailing to the
30 defendant is on file, the court shall make an order requiring the
31 garnishee to pay such sum into court when the same becomes due, the
32 date when such payment is to be made to be specified in the order, and
33 in default thereof that judgment shall be entered against the garnishee
34 for the amount of such indebtedness so admitted or found due. In case
35 the garnishee pays the sum at the time specified in the order, the
36 payment shall operate as a discharge, otherwise judgment shall be
37 entered against the garnishee for the amount of such indebtedness,

1 which judgment shall have the same force and effect, and be enforced in
2 the same manner as other judgments entered against garnishees as
3 provided in this chapter: PROVIDED, That if judgment is rendered in
4 favor of the principal defendant, or if any judgment rendered against
5 the principal defendant is satisfied prior to the date of payment
6 specified in an order of payment entered under this subsection, the
7 garnishee shall not be required to make the payment, nor shall any
8 judgment in such case be entered against the garnishee.

9 (3) The court shall, upon request of the plaintiff at the time
10 judgment is rendered against the garnishee or within one year
11 thereafter, or within one year after service of the writ on the
12 garnishee if no judgment is taken against the garnishee, render
13 judgment against the defendant for recoverable garnishment costs and
14 attorney fees. However, if it appears from the answer of garnishee or
15 otherwise that, at the time the writ was issued, the garnishee held no
16 funds, personal property, or effects of the defendant and, in the case
17 of a garnishment on earnings, the defendant was not employed by the
18 garnishee, or, in the case of a writ directed to a financial
19 institution, the defendant maintained no account therein, then the
20 plaintiff may not be awarded judgment against the defendant for such
21 costs or attorney fees.

22 **Sec. 11.** RCW 6.27.265 and 2000 c 72 s 6 are each amended to read
23 as follows:

24 The judgment on garnishee's answer or tendered funds, and for costs
25 against defendant, and the order to pay funds shall be substantially in
26 the following form:

27 IN THE COURT OF THE STATE OF WASHINGTON IN AND FOR THE
28 COUNTY OF

29 No.
30 Plaintiff
31 vs. JUDGMENT AND ORDER
32 TO PAY
33 (Clerk's Action Required)
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35 Defendant

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.....	
Garnishee	
Judgment Summary	
Judgment Creditor
Garnishment Judgment Debtor
Garnishment Judgment Amount
Costs Judgment Debtor
Costs Judgment Amount
Judgments to bear interest at %
Attorney for Judgment Creditor

IT APPEARING THAT garnishee was indebted to defendant in the nonexempt amount of \$; that at the time the writ of garnishment was issued defendant was employed by or maintained a financial institution account with garnishee, or garnishee had in its possession or control funds, personal property, or effects of defendant; and that plaintiff has incurred recoverable costs and attorney fees of \$; now, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED that plaintiff is awarded judgment against garnishee in the amount of \$; that plaintiff is awarded judgment against defendant in the amount of \$ for recoverable costs; that, if this is a superior court order, garnishee shall pay its judgment amount to plaintiff [or to plaintiff's attorney] through the registry of the court, and the clerk of the court shall note receipt thereof and forthwith disburse such payment to plaintiff [or to plaintiff's attorney]; that, if this is a district court order, garnishee shall pay its judgment amount to plaintiff directly [or ((through)) to plaintiff's attorney], and if any payment is received by the clerk of the court, the clerk shall forthwith disburse such payment to plaintiff [or to plaintiff's attorney]. Garnishee is advised that the failure to pay its judgment amount may result in execution of the judgment, including garnishment.

DONE IN OPEN COURT this day of, 20. . .

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Judge/Court Commissioner

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Presented by:
.....
Attorney for Plaintiff

Sec. 12. RCW 6.27.320 and 2000 c 72 s 7 are each amended to read as follows:

In any case where garnishee has answered that it is holding funds or property belonging to defendant and plaintiff shall obtain satisfaction of the judgment and payment of recoverable garnishment costs and attorney fees from a source other than the garnishment, upon written demand of the defendant or the garnishee, it shall be the duty of plaintiff to obtain an order dismissing the garnishment and to serve it upon the garnishee within twenty days after the demand or the satisfaction of judgment and payment of costs and fees, whichever shall be later. The attorney of record for the plaintiff may, as an alternative to obtaining a court order dismissing the garnishment, deliver to the garnishee and file with the court an authorization to dismiss the garnishment in whole or part, signed by the attorney, in substantially the form indicated in RCW 6.27.160(3). In the event of the failure of plaintiff to obtain and serve such an order or release, if garnishee continues to hold such funds or property, defendant shall be entitled to move for dismissal of the garnishment and shall further be entitled to a judgment against plaintiff of one hundred dollars plus defendant's costs and damages. Dismissal may be on ex parte motion of the plaintiff.

Sec. 13. RCW 6.27.340 and 1988 c 231 s 34 are each amended to read as follows:

(1) Service of a writ for a continuing lien shall comply fully with RCW 6.27.110.

(2) The caption of the writ shall be marked "CONTINUING LIEN ON EARNINGS" and the following additional paragraph shall be included in the writ form prescribed in RCW 6.27.100:

"THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion of the defendant's earnings due at the time of service of this writ and shall also hold the

1 defendant's nonexempt earnings that accrue through the last
2 payroll period ending on or before SIXTY days after the date of
3 service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY
4 HOLDING THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS UNDER
5 A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE
6 SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt
7 earnings that accrue from the date the previously served writ
8 or writs terminate and through the last payroll period ending
9 on or before sixty days after the date of termination of the
10 previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL
11 STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED
12 IN THIS WRIT OF GARNISHMENT."

13 (3) The answer forms served on an employer with the writ shall
14 include in the caption, "ANSWER TO WRIT OF GARNISHMENT FOR CONTINUING
15 LIEN ON EARNINGS," and the following paragraph shall be added (~~as the~~
16 ~~first paragraph~~) to section I of the answer form prescribed in RCW
17 6.27.190:

18 "If you are withholding the defendant's nonexempt earnings
19 under a previously served writ for a continuing lien, answer
20 only (~~this portion~~) sections I and II of this form and mail
21 or deliver the forms as directed in the writ. Withhold from
22 the defendant's future nonexempt earnings as directed in the
23 writ, and a second set of answer forms will be forwarded to you
24 later.

25 ANSWER: I am presently holding the defendant's nonexempt
26 earnings under a previous writ served on that will
27 terminate not later than, ((19)) 20

28

29 If you are NOT withholding the defendant's earnings under a
30 previously served writ for a continuing lien, answer (~~the~~
31 ~~following portion of~~) this entire form and mail or deliver the
32 forms as directed in the writ. A second set of answer forms
33 will be forwarded to you later for subsequently withheld
34 earnings."

1 (4) In the event plaintiff fails to comply with this section,
2 employer may elect to treat the garnishment as one not creating a
3 continuing lien.

4 **Sec. 14.** RCW 6.27.350 and 1997 c 296 s 7 are each amended to read
5 as follows:

6 (1) Where the garnishee's answer to a garnishment for a continuing
7 lien reflects that the defendant is employed by the garnishee, the
8 judgment or balance due thereon as reflected on the writ of garnishment
9 shall become a lien on earnings due at the time of the effective date
10 of the writ, as defined in this subsection, to the extent that they are
11 not exempt from garnishment, and such lien shall continue as to
12 subsequent nonexempt earnings until the total subject to the lien
13 equals the amount stated on the writ of garnishment or until the
14 expiration of the employer's payroll period ending on or before sixty
15 days after the effective date of the writ, whichever occurs first,
16 except that such lien on subsequent earnings shall terminate sooner if
17 the employment relationship is terminated or if the underlying judgment
18 is vacated, modified, or satisfied in full or if the writ is dismissed.
19 The "effective date" of a writ is the date of service of the writ if
20 there is no previously served writ; otherwise, it is the date of
21 termination of a previously served writ or writs.

22 (2) At the time of the expected termination of the lien, the
23 plaintiff shall mail to the garnishee three additional stamped
24 envelopes addressed as provided in RCW 6.27.110, and four additional
25 copies of the answer form prescribed in RCW 6.27.190(~~(, (a))~~). The
26 plaintiff shall replace the text of section I of the answer form with
27 a statement in substantially the following form (~~added as the first~~
28 paragraph): "ANSWER (~~THE SECOND PART~~) SECTION II OF THIS FORM WITH
29 RESPECT TO THE TOTAL AMOUNT OF EARNINGS WITHHELD UNDER THIS
30 GARNISHMENT, INCLUDING THE AMOUNT, IF ANY, STATED IN YOUR FIRST ANSWER,
31 AND WITHIN TWENTY DAYS AFTER YOU RECEIVE THESE FORMS, MAIL OR DELIVER
32 THEM AS DIRECTED IN THE WRIT(~~" and (b) with the following lines~~
33 substituted for the first sentence of the form prescribed in RCW
34 6.27.190:)) ."

35 Amount due and owing stated in first answer \$...
36 Amount accrued since first answer \$...

2 (3) Within twenty days of receipt of the second answer form the
3 garnishee shall file a second answer, in the form as provided in
4 subsection (2) of this section, stating the total amount held subject
5 to the garnishment.

6 **Sec. 15.** RCW 3.62.060 and 1992 c 62 s 8 are each amended to read
7 as follows:

8 Clerks of the district courts shall collect the following fees for
9 their official services:

10 (1) In any civil action commenced before or transferred to a
11 district court, the plaintiff shall, at the time of such commencement
12 or transfer, pay to such court a filing fee of thirty-one dollars plus
13 any surcharge authorized by RCW 7.75.035. No party shall be compelled
14 to pay to the court any other fees or charges up to and including the
15 rendition of judgment in the action other than those listed.

16 (2) For issuing a writ of garnishment or other writ, or for filing
17 an attorney issued writ of garnishment, a fee of six dollars.

18 (3) For filing a supplemental proceeding a fee of twelve dollars.

19 (4) For demanding a jury in a civil case a fee of fifty dollars to
20 be paid by the person demanding a jury.

21 (5) For preparing a transcript of a judgment a fee of six dollars.

22 (6) For certifying any document on file or of record in the clerk's
23 office a fee of five dollars.

24 (7) For preparing the record of a case for appeal to superior court
25 a fee of forty dollars including any costs of tape duplication as
26 governed by the rules of appeal for courts of limited jurisdiction
27 (RALJ).

28 (8) For duplication of part or all of the electronic tape or tapes
29 of a proceeding ten dollars per tape.

30 The fees or charges imposed under this section shall be allowed as
31 court costs whenever a judgment for costs is awarded.

32 **Sec. 16.** RCW 6.27.010 and 1987 c 442 s 1001 are each amended to
33 read as follows:

34 (1) As used in this chapter, the term "earnings" means compensation

1 paid or payable to an individual for personal services, whether
2 denominated as wages, salary, commission, bonus, or otherwise, and
3 includes periodic payments pursuant to a nongovernmental pension or
4 retirement program.

5 (2) As used in this chapter, the term "disposable earnings" means
6 that part of earnings remaining after the deduction from those earnings
7 of any amounts required by law to be withheld.

8 **Sec. 17.** RCW 6.27.060 and 1988 c 231 s 22 are each amended to read
9 as follows:

10 The judgment creditor as the plaintiff or someone in the judgment
11 creditor's behalf shall apply for a writ of garnishment by affidavit,
12 stating the following facts: (1) The plaintiff has a judgment wholly
13 or partially unsatisfied in the court from which the writ is sought;
14 (2) the amount alleged to be due under that judgment; (3) the plaintiff
15 has reason to believe, and does believe that the garnishee, stating the
16 garnishee's name and residence or place of business, is indebted to the
17 defendant in amounts exceeding those exempted from garnishment by any
18 state or federal law, or that the garnishee has possession or control
19 of personal property or effects belonging to the defendant which are
20 not exempted from garnishment by any state or federal law; and (4)
21 whether or not the garnishee is the employer of the judgment debtor.

22 The judgment creditor shall pay to the clerk of the superior court
23 the fee provided by RCW 36.18.020, or to the clerk of the district
24 court the fee (~~(of two dollars)~~) provided by RCW 3.62.060."

25 Correct the title.

--- END ---